

REMARKS**Summary of the Office Action**

Claims 1-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yamauchi (U.S. Patent No. 6,819,422) (hereinafter Yamauchi).

Summary of the Response to the Office Action

Applicant has canceled claim 3 without prejudice or disclaimer. Applicant have amended claims 1, 2, 4 and 8-10 and added new claims 11-13 to differently describe the embodiments of the disclosure of the instant application's specification and/or to improve the form of the claims. Accordingly, claims 1, 2 and 4-13 are currently pending for consideration.

Rejection under 35 U.S.C. § 102(e)

Claims 1-10 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Yamauchi. Applicant has amended independent claims 1 and 10 to differently describe embodiments of the disclosure of the instant application's specification. To the extent that these rejections might be deemed to apply to the claims as newly-amended, they are respectfully traversed for at least the following reasons.

Yamauchi does not disclose that the "plurality of hole portions are formed in the light shielding member so as to penetrate the light shielding member from the table side to the photodiode side" and "the plurality of hole portions are juxtaposed along a direction in which a colored portion of line shape formed on the immunochromatographic test strip extends." As a

result, Applicant respectfully submits that the combination of features described in newly-amended independent claim 1 of the instant application differs from Yamauchi.

Yamauchi also does not disclose that "the light emitting diode and the photodiode move relative to the table in a predetermined direction." Applicant respectfully submits that in Yamauchi, the light-emitting element 21, the CCD image sensor 36, and the diffusing plate 24 are fixed to the chassis 104 and do not move. Furthermore, Yamauchi does not disclose that "a plurality of hole portions penetrating the light shielding member ... are formed in juxtaposition in a direction intersecting with the predetermined direction, in the light shielding member." As a result, Applicant respectfully submits that the combination of features described in newly-amended claim 10 of the instant application differs from Yamauchi.

Accordingly, Applicants respectfully assert that the rejection under 35 U.S.C. § 102(e) should be withdrawn because Yamauchi does not teach or suggest each feature of independent claim 1 or 10, as amended. As pointed out in MPEP § 2131, "[t]o anticipate a claim, the reference must teach every element of the claim." Thus, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Verdegaal Bros. v. Union Oil Co. Of California, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987)." Furthermore, Applicants respectfully assert that the dependent claims, including newly-added dependent claims 11-13 are allowable at least because of their dependence from independent claim 1 or 10, as amended, and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully request the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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